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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-292-C - ORDER NO. 98-747
SEPTEMBER 29, 1998

IN RE: Application of NET-tel Corporation for a)	ORDER APPROVING
Certificate of Public Convenience and)	EXPEDITED REVIEW
Necessity to Provide Local Exchange)	AND GRANTING
Telecommunications Services and for)	CERTIFICATE TO
Flexible Regulation of its Local Service)	PROVIDE LOCAL
Offerings.)	EXCHANGE SERVICES

JMR

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of NET-tel Corporation ("NET-tel" or "the Company") for authority to provide Local Exchange Service within the State of South Carolina and by way of the Company's Motion for Expedited Review of Application. The Applicant requests authority to provide local exchange service within the present operating areas of BellSouth Telecommunications, GTE South, and Sprint/United within South Carolina and also requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed NET-tel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected

by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. NET-tel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from the South Carolina Telephone Coalition ("SCTC") and the Consumer Advocate for the State of South Carolina ("Consumer Advocate").

On August 12, 1998, counsel for SCTC filed with the Commission a Stipulation in which NET-tel stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until NET-tel provided written notice of its intent prior to the date of the intended service. NET-tel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. NET-tel agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to NET-tel provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

On August 27, 1998, NET-tel filed its Motion for Expedited Review of its Application and served the Motion on all parties. No opposition to the Motion was received by the Commission.¹

¹ On August 26, 1998, the Commission received a letter from counsel for NET-tel which indicates that NET-tel agreed to make a revision to its proposed local exchange service tariff as requested by the Consumer Advocate.

In support of its Application, NET-tel submitted the verified testimony of Thomas M. Lera, Regulatory Manager of NET-tel. The purpose of Lera's testimony was to provide evidence regarding the financial, technical and managerial ability of NET-tel to provide resold telecommunications services on a local exchange resale basis in South Carolina, to discuss the services NET-tel proposes to offer, and to discuss NET-tel's proposed tariff.

The Commission, in its regularly scheduled Commission Meeting on September 8, 1998, considered Net-tel's Motion for Expedited Review. The Commission recognizes that NET-tel is presently certified to operate as a reseller of interexchange services in South Carolina having been granted that authority by Order No. 97-651 (dated August 1, 1997) in Docket No. 97-094-C. As no opposition to Net-tel's Motion for Expedited Review was received, the Commission will grant NET-tel's Motion for Expedited Review and will consider NET-tel's Application in the Commission Meeting with court reporter present. The Commission's discussion and deliberation in the presence of a court reporter and with verified testimony of the witness will be deemed a hearing for the purposes of consideration of the Application.

DISCUSSION

S.C. Code Ann. § 58-9-280 (Supp. 1997) provides that the Commission may grant a certificate to operate as a telephone utility...to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, NET-tel's application, the Motion for Expedited Review of the Application, and evidence submitted by NET-tel, the Commission finds and concludes that the Certificate sought by NET-tel should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code

Ann. § 58-9-280 (Supp. 1997) and the evidence submitted in support of the motion which relates to that criteria:

1. The Commission finds that NET-tel possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. § 58-9-280(B)(1) (Supp. 1997). Mr. Lera's testimony reveals that NET-tel is a Florida Corporation formed in 1995 and has been a long distance service provider since 1996. NET-tel is certified or registered to provide intrastate resold telecommunications services in all but five states. NET-tel received authority to operate as an interexchange service reseller in South Carolina on August 1, 1997. According to witness Lera, NET-tel is now seeking to expand its service offerings to include competitive local exchange service

Mr. Lera stated that NET-tel management has extensive experience in providing high quality resold telecommunications services on an intrastate interexchange basis and offers that NET-tel's management experience is directly transferable to the provision of resold local services. Mr. Lera offered that NET-tel's officers have extensive experience in the telecommunications industry and offered that this experience demonstrates that NET-tel has access to adequate technical and managerial resources to perform the resold services for which NET-tel seeks authority by this Application.

Mr. Lera also stated his opinion that NET-tel has adequate access to the capital necessary to provide the local services proposed to be offered by NET-tel. Mr. Lera stated that since NET-tel proposes to provide service on a resale basis only, that significant additional capital expenditures will not be required in the first year of operation. Mr. Lera stated that he anticipates that NET-tel will be able to integrate the provision of resold local exchange services into its existing South Carolina operations thus enabling NET-tel to take

advantage of existing resources available within the Company such as billing, customer service, maintenance and technical support, and marketing and sales.

Based on the undisputed testimony of witness Lera, the Commission finds that NET-tel possesses the technical, financial, and managerial resources sufficient to provide the services requested.

2. The Commission finds that NET-tel will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B) (Supp. 1997). Mr. Lera stated that NET-tel will comply with all applicable rules, policies and statutes applicable to the offering of those services. Based on the undisputed testimony of Mr. Lera, the Commission believes, and so finds, that NET-tel will provide telecommunications services that will meet the service standards of the Commission.

3. The Commission finds that NET-tel's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997). Witness Lera's testimony reveals that NET-tel believes that approval of its Application will further the public interest by enhancing telecommunications competition within the state thereby encouraging technological innovation and efficient use of resources as well as providing South Carolina consumers with wider choices of services and providers. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by NET-tel will not adversely impact affordable local exchange service.

4. The Commission finds that NET-tel will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4) (Supp. 1997). NET-tel agreed in the Stipulation with the SCTC to participate in the support of universally

available telephone service at affordable rates as required by State and Federal laws and as required by the Commission's Rules and Regulations. Based on the undisputed evidence of record, the Commission finds that NET-tel will participate in support of universally available telephone service at affordable rates.

5. The Commission finds that the provision of local exchange service by NET-tel "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) Supp. 1997). Mr. Lera offered testimony that the approval of NET-tel's application will benefit South Carolina customers by expanding their options for their local service needs. Mr. Lera also offered that increased competition provides benefit to the consumers by providing a wide variety of services and prices from which consumers can choose. Therefore, the Commission finds that approval of NET-tel's Application to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 1997).

Therefore, based on the findings above, the Commission finds and concludes that a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services within the present operating areas of BellSouth Telecommunications, GTE South, and Sprint/United should be granted to NET-tel.

By its Application, NET-tel requested a waiver from maintaining its books and records under the Uniform System of Accounts. NET-tel asserts that it maintains its books and records according to General Accepted Accounting Principles ("GAAP") and that the Commission will be able to obtain any information necessary to evaluate NET-tel's performance under GAAP. NET-tel further offers that a waiver of the requirement that books maintained under the Uniform System of Accounts will allow NET-tel to avoid

maintaining two sets of books. NET-tel also requested a waiver of the requirement of publishing a directory and states that it will arrange for its customers to be published in the LEC directory. Finally, NET-tel seeks exemption from any report not applicable to a resale local provider. NET-tel offers that as a reseller, NET-tel will not construct facilities or have direct control over physical facilities and therefore requests exemption from any report not applicable to a resale local provider.

IT IS THEREFORE ORDERED THAT:

1. The Application of NET-tel for a Certificate of Public Convenience and Necessity to provide competitive intrastate local exchange services within the present operating areas of BellSouth Telecommunications, GTE South, and Sprint/United is approved. NET-tel is hereby authorized to provide competitive local exchange services in these areas in South Carolina. The terms of the Stipulation between NET-tel and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.
2. NET-tel shall file, prior to offering local exchange service in South Carolina, a final tariff of its service offerings conforming to all matters discussed with the Staff, and comporting with South Carolina law in all matters.
3. NET-tel shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, NET-tel shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. NET-tel shall file with the Commission

the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, NET-tel shall promptly notify the Commission in writing if the representatives are replaced.

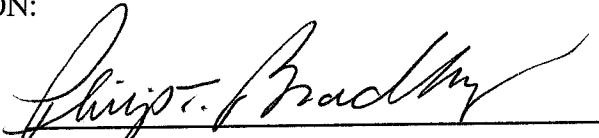
4. By its Application, NET-tel requested waivers of certain Commission Regulations. NET-tel requested a waiver from the Uniform System of Accounts, directory publishing, and certain reporting requirements not applicable to a resale local provider. The Commission grants waivers for these three areas. However, NET-tel is directed to comply with all other Commission regulations unless expressly waived by the Commission.

5. NET-tel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. NET-tel's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Acting Executive Director

(SEAL)

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ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230